



INDUSTRY CIRCULAR

**DEPARTMENT OF
THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226**

Number: 79-9

Date: July 17, 1979

PARTICIPATION OF INDUSTRY MEMBERS IN RETAILER ASSOCIATIONS AND TRADE-BUYER EMPLOYEE ASSOCIATION ACTIVITIES

**Producers, Importers, or Wholesalers of Distilled Spirits, Wine
or Malt Beverages and Others Concerned:**

PURPOSE. This circular is issued to clarify Industry Circular 76-23
and ATF Ruling 76-23.

Numerous requests from retailer associations and industry members alike, point out that some confusion still exists relative to participation by producers, wholesalers and importers in the activities of retailer associations and trade-buyer employee associations. In this regard, several retail associations and industry members have interpreted Industry Circular 76-23 and ATF Ruling 76-23 as prohibiting outright industry member participation in such activities.

ATF Industry Circular 76-23 and ATF Ruling 76-23 specifically held, in part, that "in view of the fact that the benefits resulting from payments, gifts or services rendered by producers, importers, or wholesalers to retailer groups or associations or trade-buyer employee associations flow to individual members thereof, the Bureau holds that sections 5(b) and (c) of the Federal Alcohol Administration Act apply not only to transactions involving individual retailers but also to these practices when directed towards groups or associations of retailers or trade-buyer employees."

By issuing this position, ATF did not intend to preclude or prevent legitimate supplier participation in the activities of retailer associations or trade-buyer employee associations. The circular did not state that an industry member is prohibited outright from engaging in these activities. Mere participation in and of itself is not a violation of the Act.

ATF has received many inquiries on this matter requesting a specific "yes" or "no" response as to whether or not participation in such activities would be a violation of the FAA Act. In responding to these inquiries, we have not given

a "yes" or "no" answer. It is impossible to respond in this form since we can never determine in advance whether an activity between a supplier and a retailer association will result in a violation. We have responded to these inquiries by advising the interested party that "some degree of risk may be involved if such participation results in alcoholic beverages being purchased from the participating industry member to the exclusion, in whole or part, of any such product sold or offered for sale by other persons in interstate or foreign commerce."

Held, while each case must, of course, be governed by its own facts, it has always been the policy of ATF that mere participation by a ~~supplier in the activities of retailer associations and trade buyer~~ employee associations does not alone constitute a violation of the Federal Alcohol Administration Act.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226.

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Acting
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Department of the Treasury
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